

AMENDED IN SENATE SEPTEMBER 4, 1997

AMENDED IN SENATE JULY 22, 1997

AMENDED IN ASSEMBLY JUNE 3, 1997

AMENDED IN ASSEMBLY APRIL 21, 1997

AMENDED IN ASSEMBLY APRIL 7, 1997

AMENDED IN ASSEMBLY MARCH 20, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 51

Introduced by Assembly Member Murray

(Principal coauthor: Senator Kopp)

(Coauthors: Assembly Members Alquist, Baca, Bowen, Cardoza, Cunneen, Goldsmith, Knox, Margett, Mazzoni, Napolitano, Pacheco, Thompson, Villaraigosa, Vincent, Washington, Wayne, Wildman, and Wright)

(Coauthors: Senators Costa, Hayden, Johnson, Lee, O’Connell, Peace, Solis, and Watson)

December 2, 1996

An act to amend ~~Sections 422.75 and 451.5~~ *Section 422.75* of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL’S DIGEST

AB 51, as amended, Murray. Crimes: places of worship.

Existing law provides that any person who commits a felony or attempts to commit a felony against the property of a public agency or private institution, including specified places,

because the property is identified or associated with a person or group of an identifiable race, color, religion, nationality, country of origin, ancestry, gender, disability, or sexual orientation, shall receive an additional term of 1, 2, or 3 years in the state prison, at the court's discretion.

This bill would add places of worship to the list of specified places included in the above provision.

~~Existing law provides that any person who willfully, maliciously, deliberately, with premeditation, and with intent to cause injury to one or more persons or to cause damage to property under circumstances likely to produce injury to one or more persons or to cause damage to one or more structures or inhabited dwellings, sets fire to, burns, or causes to be burned, or aids, counsels, or procures the burning of any residence, structure, forest land, or property is guilty of aggravated arson if one or more specified aggravating factors exist and shall be punished by imprisonment in the state prison for 10 years to life.~~

~~This bill would add to that list of aggravating factors damage to, or destruction of, any church, temple, synagogue, or other place of worship, or building that serves as part of a religious complex but is not part of the central sanctuary, under specified circumstances. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

1 SECTION 1. Section 422.75 of the Penal Code is
2 amended to read:
3 422.75. (a) Except in the case of a person punished
4 under Section 422.7, a person who commits a felony or



1 attempts to commit a felony because of the victim's race,
2 color, religion, nationality, country of origin, ancestry,
3 disability, or sexual orientation, or because he or she
4 perceives that the victim has one or more of those
5 characteristics, shall receive an additional term of one,
6 two, or three years in the state prison, at the court's
7 discretion.

8 (b) Except in the case of a person punished under
9 Section 422.7 or subdivision (a) of this section, any person
10 who commits a felony or attempts to commit a felony
11 against the property of a public agency or private
12 institution, including a school, educational facility, library
13 or community center, meeting hall, place of worship, or
14 offices of an advocacy group, or the grounds adjacent to,
15 owned, or rented by the public agency or private
16 institution, because the property of the public agency or
17 private institution is identified or associated with a person
18 or group of an identifiable race, color, religion,
19 nationality, country of origin, ancestry, gender, disability,
20 or sexual orientation, shall receive an additional term of
21 one, two, or three years in the state prison, at the court's
22 discretion.

23 (c) Except in the case of a person punished under
24 Section 422.7 or subdivision (a) or (b) of this section, any
25 person who commits a felony, or attempts to commit a
26 felony, because of the victim's race, color, religion,
27 nationality, country of origin, ancestry, gender, disability,
28 or sexual orientation, or because he or she perceives that
29 the victim has one or more of those characteristics, and
30 who voluntarily acted in concert with another person,
31 either personally or by aiding and abetting another
32 person, shall receive an additional two, three, or four
33 years in the state prison, at the court's discretion.

34 (d) For the purpose of imposing an additional term
35 under subdivision (a) or (c), it shall be a factor in
36 aggravation that the defendant personally used a firearm
37 in the commission of the offense. Nothing in this
38 subdivision shall preclude a court from also imposing a
39 sentence enhancement pursuant to Section 12022.5 or
40 12022.55, or any other law.

1 (e) A person who is punished pursuant to this section
2 also shall receive an additional term of one year in the
3 state prison for each prior felony conviction on charges
4 brought and tried separately in which it was found by the
5 trier of fact or admitted by the defendant that the crime
6 was committed because of the victim's race, color,
7 religion, nationality, country of origin, ancestry,
8 disability, or sexual orientation, or that the crime was
9 committed because the defendant perceived that the
10 victim had one or more of those characteristics. This
11 additional term shall only apply where a sentence
12 enhancement is not imposed pursuant to Section 667 or
13 667.5.

14 (f) Any additional term authorized by this section shall
15 not be imposed unless the allegation is charged in the
16 accusatory pleading and admitted by the defendant or
17 found to be true by the trier of fact.

18 (g) Any additional term imposed pursuant to this
19 section shall be in addition to any other punishment
20 provided by law.

21 (h) Notwithstanding any other law, the court may
22 strike any additional term imposed by this section if the
23 court determines that there are mitigating circumstances
24 and states on the record the reasons for striking the
25 additional punishment.

26 ~~SEC. 2. Section 451.5 of the Penal Code is amended to~~
27 ~~read:~~

28 ~~451.5. (a) Any person who willfully, maliciously,~~
29 ~~deliberately, with premeditation, and with intent to~~
30 ~~cause injury to one or more persons or to cause damage~~
31 ~~to property under circumstances likely to produce injury~~
32 ~~to one or more persons or to cause damage to one or more~~
33 ~~structures or inhabited dwellings, sets fire to, burns, or~~
34 ~~causes to be burned, or aids, counsels, or procures the~~
35 ~~burning of any residence, structure, forest land, or~~
36 ~~property is guilty of aggravated arson if one or more of the~~
37 ~~following aggravating factors exists:~~

38 ~~(1) The defendant has been previously convicted of~~
39 ~~arson on one or more occasions within the past 10 years.~~

1 ~~(2) (A) The fire caused property damage and other~~
2 ~~losses in excess of five million dollars (\$5,000,000).~~

3 ~~(B) In calculating the total amount of property~~
4 ~~damage and other losses under subparagraph (A), the~~
5 ~~court shall consider the cost of fire suppression.~~

6 ~~It is the intent of the Legislature that this paragraph be~~
7 ~~reviewed within five years to consider the effects of~~
8 ~~inflation on the dollar amount stated herein. For that~~
9 ~~reason, this paragraph shall become inoperative on~~
10 ~~January 1, 1999, unless a later enacted statute, which is~~
11 ~~enacted before January 1, 1999, deletes or extends that~~
12 ~~date.~~

13 ~~(3) The fire caused damage to, or the destruction of,~~
14 ~~five or more inhabited structures.~~

15 ~~(4) The person intentionally set fire to any church,~~
16 ~~temple, synagogue, or other place of worship, or building~~
17 ~~that serves as part of a religious complex but is not part~~
18 ~~of the central sanctuary, knowing that the structure was~~
19 ~~a church, temple, synagogue, or other place of worship,~~
20 ~~or building that serves as a part of a religious complex, and~~
21 ~~the fire caused substantial damage to, or the destruction~~
22 ~~of the structure. For purposes of this paragraph,~~
23 ~~“substantial damage” means the loss of more than 10~~
24 ~~percent of the assessed value of the structure.~~

25 ~~(b) Any person who is convicted under subdivision (a)~~
26 ~~shall be punished by imprisonment in the state prison for~~
27 ~~10 years to life.~~

28 ~~(c) Any person who is sentenced under subdivision~~
29 ~~(b) shall not be eligible for release on parole until 10~~
30 ~~calendar years have elapsed.~~

31 ~~SEC. 3. No reimbursement is required by this act~~
32 ~~pursuant to Section 6 of Article XIII B of the California~~
33 ~~Constitution because the only costs that may be incurred~~
34 ~~by a local agency or school district will be incurred~~
35 ~~because this act creates a new crime or infraction,~~
36 ~~eliminates a crime or infraction, or changes the penalty~~
37 ~~for a crime or infraction, within the meaning of Section~~
38 ~~17556 of the Government Code, or changes the definition~~
39 ~~of a crime within the meaning of Section 6 of Article~~
40 ~~XIII B of the California Constitution.~~

1 ~~Notwithstanding Section 17580 of the Government~~
2 ~~Code, unless otherwise specified, the provisions of this act~~
3 ~~shall become operative on the same date that the act~~
4 ~~takes effect pursuant to the California Constitution.~~

